Registered No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. III] Trivandrum, Saturday, 22nd March 1958 [No. 43

CONTENTS

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS
TRIVANDRUM, 1958.

THE KERALA CINEMAS (REGULATION) BILL, 1958.

Report of the Select Committee.

The Select Committee to which the Kerala Cinemas (Regulation) Bill, 1958 was referred, have considered the Bill clause by clause and now submit this their report with the Bill as reported by the Select Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 3rd February 1958.

3. The Bill was introduced in the Legislative Assembly on 3rd March 1958 and the motion for reference to a Select Committee was adopted on the same day.

4. *Clause 5.* The Committee consider that there should be a provision to the effect that the licensing authority shall, before refusing to grant a licence, give the applicant an opportunity of showing cause against the proposed action. Accordingly they have added a proviso to sub-clause (2) of this clause for this purpose.

5. *Clause 9.* The Committee are of opinion that the Government and the District Collector should have the power to suspend the exhibition of the film, not only for the reason that the exhibition of the film is likely to cause a breach of the peace, but also for any other sufficient reason. Necessary modifications for this purpose have been made in sub-clause (1) of this clause.

The Committee are also of opinion that the period of suspension of any film under sub-clause (5) should not exceed six weeks in the aggregate. This sub-clause has been modified for this purpose.

6. *Clause 10.* The Committee feel that for the contravention of any rule providing for the prohibition or regulation of smoking in cinema theatres, there should be a penalty amounting to a fine not exceeding one hundred rupees. Sub-clause (2) has been newly added for this purpose.

7. *Clause 13.* The Committee are aware that smoking in cinema theatres causes great inconvenience to non-smoking spectators and that the place being not open, the atmosphere thereof becomes insanitary and unhealthy.

They feel that smoking in cinema theatres should be prohibited or regulated by rules made for the purpose. Accordingly they have added a new clause to clause 13(2) enabling the Government to make rules to provide for the prohibition or regulation of smoking in cinema theatres.

8. *Clause 14.* The Committee are of opinion that cinematograph exhibitions to which public are not admitted or to which public are admitted without payment, and cinematograph exhibitions provided for purposes which are educational, cultural or scientific by any institution, society, committee or other organisation not conducted or established for profit should also be exempted by the Government or any officer authorised in this behalf from the provisions of the Act or rules made thereunder. The clause has been re-drafted for this purpose.

9. The other changes made by the Committee are only either verbal or consequential.

V. R. KRISHNA IYER,

Chairman of the Select Committee.

THE KERALA CINEMAS (REGULATION) BILL, 1958

(*As reported by the Select Committee.*)

A

BILL

to provide for the regulation of exhibitions by means of cinematographs in the State of Kerala.

Preamble—WHEREAS it is expedient to provide for the regulation of exhibitions by means of cinematographs in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Cinemas (Regulation) Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "cinematograph" includes any apparatus for the representation of moving pictures or series of pictures;

(2) "notification" means a notification published in the Gazette;

(3) "place" includes a house, building, tent and any description of transport, whether by water, land or air;

(4) "prescribed" means prescribed by rules made under this Act;

(5) "State" means the State of Kerala.

3. *Cinematograph exhibitions to be licensed.*—Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such licence.

4. *Licensing authority.*—The authority having power to grant licences under this Act (hereinafter referred to as the licensing authority) shall be—

(i) in any area under the administration of a local authority, the executive authority of that local authority:

Provided that in any area under the administration of the Malabar District Board, where a Panchayat is functioning, the executive authority of the Panchayat shall be the licensing authority; and

(ii) in any other area, such authority as the Government may, by notification, specify in this behalf:

Provided that the Government may, by notification, constitute, for the whole or any part of the State, such other authority as they may specify in the notification to be the licensing authority for the purposes of this Act.

5. *Restrictions on powers of licensing authority.*—(1) The licensing authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters, namely:—

(a) the interest of the public generally;

(b) the status and previous experience of the applicant;

(c) the suitability of the place where the cinematograph exhibitions are proposed to be given;

(d) the adequacy of existing places for the exhibition of cinematograph films in the locality;

(e) the benefit to any particular locality or localities to be afforded by the opening of a new place of cinematograph exhibition;

(f) the possession by the applicant of other places, if any, licensed under this Act, whether in the same locality or elsewhere, and whether at the time of applying for the licence or at any previous time, and shall also take into consideration any representations made by persons already giving cinematograph exhibitions in or near the proposed locality whether within the jurisdiction of the same local authority or not, or by any police authority within whose jurisdiction the place proposed to be licensed is situated or by any association interested in the giving of cinematograph exhibitions.

(2) The licensing authority shall not grant a licence unless it is satisfied that—

(a) the rules made under this Act have been substantially complied with, and

(b) adequate precautions have been taken in the place, in respect of which the licence is to be granted, to provide for the safety, convenience and comfort of the persons attending exhibitions therein:

Provided that the Licensing Authority shall, before refusing to grant a license under this Act, give the applicant an opportunity of showing cause against the proposed action.

(3) The licensing authority may, after consideration of the matters set forth in sub-section (1), limit the number of places in any area in respect of which licences under this Act may be granted.

(4) The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of cinematograph films, to licensing authorities; and every licensing authority shall give effect to such orders and directions.

(5) Subject to the foregoing provisions of this section, the licensing authority may grant licences under this Act to such persons and on such terms and conditions and subject to such restrictions as it may determine.

(6) Every licence under this Act shall be personal to the person to whom it is granted and no transfer or assignment thereof, whether absolute or by way of security or otherwise, shall be valid unless approved in writing by the licensing authority.

(7) Any person aggrieved by the decision or order taken or passed by the licensing authority under this Act may, within such time as may be prescribed, appeal,—

(i) where the licensing authority is the executive authority of a local authority, to that local authority ; and

(ii) in any other case, to such officer or authority as the Government may, by notification, specify in this behalf.

(8) It shall be competent for the District Collector to revise any order passed in appeal under sub-section (7), either of his own motion or on the application of any party aggrieved by the order :

Provided that no order shall be revised under this sub-section without giving an opportunity to show cause to the party who may be affected by the order.

6. *Licensing authority to permit construction and reconstruction of buildings, installation of machinery, etc., for cinematograph exhibitions.*—(1) Any person who intends—

(a) to use any place for the exhibition of cinematograph films, or

(b) to use any site for constructing a building thereon for the exhibition of cinematograph films, or

(c) to construct or reconstruct any building for such exhibition, or

(d) to instal any machinery in any place where cinematograph exhibitions are proposed to be given,

shall make an application in writing to the licensing authority for permission therefor, together with such particulars as may be prescribed, and any provision contained in the enactments specified in the Schedule as in force in any part of the State, or in the rules made under any of them, in so far as it relates to any of the matters specified above, shall not apply to any application made under this section.

(2) The licensing authority shall thereupon, after consulting such authority or officer as may be prescribed, grant or refuse permission and the provisions of sections 5, 10 and 11 relating to licences shall, so far as may be, apply to permission under this section.

7. *Power of Government to issue directions.*—The Government may, from time to time, issue directions to any licensee or to licensees generally, requiring the licensee or licensees to exhibit such film or class of films having a scientific or educative value, such films dealing with news and current events, such documentary films, indigenous films or such other films having special value to the public, as may have been approved by the Government in that behalf from time to time; and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the license has been granted:

Provided that no direction issued under this section shall require the licensee to exhibit any such film or films exceeding two thousand feet at, or for more than one-fifth of the entire time taken for, any one show.

8. *Power of licensing authority to issue directions.*—The licensing authority may, from time to time, issue directions to any licensee or to licensees generally, requiring the licensee or licensees to exhibit in each show such slides of public interest as may be supplied by that authority:

Provided that no direction issued under this section shall require the licensee to exhibit more than three such slides at, or for more than four minutes in, any one show.

9. *Power of Government or District Collector to suspend exhibition of films in certain cases.*—(1) The Government in respect of the whole of the State or any part thereof, and the District Collector within his jurisdiction may,—

(i) if they or he are or is of opinion that any film which is being or is about to be publicly exhibited is likely to cause a breach of the peace, or

(ii) for any other sufficient reason,

by order, suspend the exhibition of the film; and during such suspension, no person shall exhibit such film or permit it to be exhibited in any place in the State or any part or District thereof, as the case may be.

(2) No order shall be issued under sub-section (1) until the person concerned has been given a reasonable opportunity of showing cause against the order proposed to be issued in regard to him:

Provided that this sub-section shall not apply where the Government or the District Collector proposing to issue the order are or is satisfied that owing to any emergency or for some other reason to be recorded by them or him in writing, it is not reasonably practicable to give to that person an opportunity of showing cause:

Provided further that a copy of the reasons recorded by the Government or the District Collector for issuing the order shall be communicated to the person concerned as soon as it becomes reasonably practicable to communicate the reasons to him.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under sub-section (2), the decision thereon of the Government or the District Collector, as the case may be, shall be final.

(4) Where an order under sub-section (1) has been issued by the District Collector, a copy thereof, together with a statement of the reasons therefor, shall forthwith be forwarded by him to the Government, and the Government may, on a consideration of all the facts of the case, vary or discharge the order.

(5) An order issued under sub-section (1) shall remain in force for a period of two weeks from the date thereof, but the Goverenment may, if they are of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period or periods not exceeding six weeks in the aggregate, as they think fit:

Provided that the Government or the District Collector may review their own order.

10. *Penalties*.—(1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used. in contravention of the provisions of this Act or of the rules made thereunder, not being rules made under clause (k) of sub-section (2) of section 13, or of the conditions and restrictions upon or subject to which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

(2) If any person contravenes the provision of any rules made under clause (k) of sub-section (2) of Section 13, he shall be punishable with fine which may extend to one hundred rupees.

(3) Where after a prosecution for an offence under sub-section (1) has been commenced, the licensing authority has reason to believe that the holder of the licence is again committing the offence or continues to commit it, the licensing authority may by notice warn the holder of the licence not to continue the offence. If the holder of the licence still persists in committing the offence, the licensing authority may suspend the licence pending the result cf the prosecution.

11. *Power to revoke licence*.—(1) Where the holder of a licence has been convicted of an offence under section 10 of this Act or under section 7 of the Cinematograph Act, 1952 or under section 13 of the Travancore-Cochin Places of Public Resort Act, 1951 or under section 13 of the Madras Places of Public Resort Act, 1888 or under section 10 of the Travancore - Cochin Local Authorities Entertainments Tax Act, 1951 or under section 14 of the Madras Entertainments Tax Act, 1939, the licence may be revoked by the licencing authority by an order in writing.

(2) Where the holder of a licence bas been convicted of an offence mentioned in sub-section (1) and the licence has not been revoked by the licencing auhority, the District Collector may call for and examine the record of any proceeding taken under that sub-section, call for any report in connection there-with, and may pass such order in reference thereto as be thinks fit:

Provided that no order shall be passed under this sub-section without giving an opportunity to show cause to the party who may be affected by the order.

12. *Power to revise proceedings under the Act.*—The Government may call for and examine the record of any proceeding taken under this Act, call for any report in connection therewith, make or cause to be made any further enquiry and may pass such order in reference thereto as they think fit:

Provided that no order shall be passed under this section without giving an opportunity to show cause to the party who may be affected by the order.

13. *Power to make rules.*—(1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the terms, conditions and restrictions subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence;

(b) the regulation of cinematograph exhibitions for securing the public safety;

(c) the time within which and the conditions subject to which an appeal under sub section (7) of section 5 may be preferred, and the fees to be paid in respect of such appeal;

(d) the procedure to be followed by persons submitting applications for permission under section 6;

(e) the documents and plans to be submitted together with such applications, and the fees to be paid on such applications;

(f) the matters to be taken into consideration by the licensing authority before approving the site for the construction of the building or the plans for the construction or reconstruction of the building, or the installation of machinery;

(g) the terms, conditions, and restrictions subject to which the licensing authority may accord approval in respect of the matters referred to in clause (f);

(h) the action to be taken in cases of contravention of the terms, conditions and restrictions subject to which such approval was accorded;

(i) the procedure to be followed by the licensing authority before granting or refusing permission under section 6 and any other matter incidental thereto;

(j) the procedure for approval of films for the purposes of section 7;

(k) the prohibition or regulation of smoking in cinema theatres.

(3) All rules made under this Act shall be laid for not less than fifteen days before the Legislative Assembly, as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

14. *Power to exempt.*—The Government or any officer authorised in this behalf may by order in writing, exempt subject to such conditions and restrictions as they may impose:—

(i) any cinematograph exhibition to which public are not admitted or to which public are admitted without payment; or

(ii) any cinematograph exhibition provided for purposes which are educational, cultural or scientific, by any institution, society, committee or other organisation not conducted or established for profit; or

(iii) any place where a cinematograph exhibition referred to in clause (i) or (ii) is given,

from any of the provisions of this Act or of any rules made thereunder.

15. *Repeal.*—The Travancore-Cochin Cinemas (Regulation) Act, 1955 (IX of 1955) and the Madras Cinemas (Regulation) Act, 1955 (IX of 1955) as in force in the Malabar District referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed:

Provided that any licence, appointment, notification, order, rule, form or bye-law, issued or made or deemed to have been issued or made under the repealed Acts shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been issued or made under the provisions of this Act, unless and until it is superseded by any licence, appointment, notification, order, rule, form or bye-law issued or made under this Act.

THE SCHEDULE.

(See Section 6)

1 The Trivandrum City Municipal Act (Act IV of 1116);
2 The Travancore District Municipalities Act, 1116 (Act XXIII of 1116);
3 The Cochin Municipal Act, XVIII of 1113;
4 The Travancore-Cochin Panchayats Act, 1950 (Act II of 1950);
5 The Travancore-Cochin Places of Public Resort Act, 1951 (Act VIII of 1951);
6 The Madras Places of Public Resort Act, 1888 (Act II of 1888);
7 The Madras District Municipalities Act, 1920 (Act V of 1920);
8 The Madras District Boards Act, 1920 (Act XIV of 1920); and
9 The Madras Village Panchayats Act, 1950 (Act X of 1950).

V. KRISHNAMOORTHI,

Secretary, Legislative Assembly.